

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA

COMMISSIONER OF INSURANCE

CAUSE NUMBER: 6560-AG08-0317-085
6561-AG08-0317-086

IN THE MATTER OF:)

Jose Ernest Murcia,)
 Producer/Respondent.)

713 West Darrell Drive)
Muncie, Indiana 47303)

Type of Agency Action: Enforcement)

FILED

SEP 12 2008

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On July 29, 2008, the Administrative Law Judge, filed his Findings of Fact, Conclusions of Law and Recommended Order in the above-captioned matter.

1. The Department served Findings of Fact, Conclusions of law, and Recommended Order and Notice of Filing Recommended Order on Respondent by mailing the same to his home address.

2. The Department has complied with the notice requirements of Ind. Code §4-21.5-3-17.

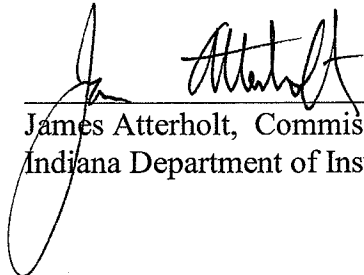
3. Respondent has not filed an objection with the Commissioner regarding the Administrative Law Judge's Recommended Order, and more than eighteen (18) days have elapsed.

Therefore, the Commissioner of Insurance, being fully advised, now hereby adopts in full the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order and issues the following Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. Respondent is to pay a fine in the amount ten thousand dollars (\$10,000.00) for violation of Indiana Insurance Law.
2. Respondent is to pay restitution to Deloris Leptor in the amount of ten thousand dollars (\$10,000.00).
3. Respondent is to pay restitution to Shirley Musselman in the amount of sixty-one thousand dollars (\$61,000.00).

ALL OF WHICH IS ORDERED by the Commissioner this 12 day of September, 2008.



James Atterholt, Commissioner
Indiana Department of Insurance

Copies to:

Jose Ernest Murcia
713 West Darrell Drive
Muncie, Indiana 47303

Laura Willett, Attorney
Indiana Department of Insurance
311 W. Washington Street
Suite 300
Indianapolis, Indiana 46204

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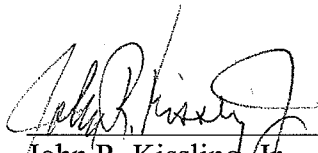
IN THE MATTER OF:)
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Jose Ernest Murcia,)
 Producer/Respondent.)
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713 West Darrell Drive)
Muncie, Indiana 47303)
)
Type of Agency Action: Enforcement)

FILED
JUL 29 2008
STATE OF INDIANA
DEPT. OF INSURANCE

NOTICE OF FILING OF RECOMMENDED ORDER

The parties of this action are hereby notified that the Administrative Law Judge's Findings of Fact, Conclusions of Law and Recommended Order are deemed filed as of this date.

To preserve an objection to this order for judicial review, you must object to the order in a writing that: 1) identifies the basis for your objection with reasonable particularity; and 2) is filed with the Commissioner of the Department of Insurance within eighteen (18) days from the date of this Order.



John R. Kissling, Jr.
Administrative Law Judge

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 6560-AG08-0317-085
6561-AG08-0317-086

IN THE MATTER OF:

Jose Ernest Murcia
 Producer/Respondent.

713 West Darrell Drive
Muncie, IN 47303-976

Type of Agency Action: Enforcement

FILED
JUL 29 2008
STATE OF INDIANA
DEPT. OF INSURANCE

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDED ORDER

Administrative Law Judge, John R. Kissling, Jr., having considered and reviewed all of the evidence, will now render a decision in the matter of Respondent Jose Ernest Murcia ("Respondent"), which came to be heard on the 29th day of April, 2008 at 10:18 a.m.

The Indiana Department of Insurance was represented by counsel, Laura Willett. Respondent chose not to appear and was unrepresented by counsel. Witnesses testified under oath, evidence was heard, and exhibits were received into evidence.

Based upon the evidence presented at said hearing, the Administrative Law Judge now makes the following Findings of Fact and Conclusions of Law, and issues his Recommended Order as follows:

FINDINGS OF FACT

1. Respondent was properly notified of the April 29, 2008 hearing date and time by U.S. Certified Mail #7004 1160 0000 3841 8948.
2. Respondent's license was permanently revoked by the Commissioner's Final Order dated March 4, 2008. (Transcript pg. 9).
3. Yucatan Resorts, S.A. ("Yucatan"), purported to be a Panamanian Corporation. Yucatan, through its founder and chairman Michael E. Kelly, designed, promoted, and operated a timeshare program. Yucatan was formally dissolved in Panama City, Panama on or about December 23, 2003. (Statement of Charges).
4. Resort Holdings International, Inc. was a Nevada Corporation. Resort Holdings International, S.A. ("Resort Holdings") purports to be a Panamanian Corporation. After Yucatan dissolved, Resort Holdings took over the timeshare resort program. (Statement of Charges).
5. World Phantasy Tours, Inc., d/b/a Majesty Travel ("Majesty"), purports to be a Panamanian company serving as the management company for the leasing of the timeshares sold by Yucatan and Resort Holdings. (Statement of Charges).
6. Galaxy Properties Management, S.A. ("Galaxy"), purports to be a Panamanian company purchasing the rental portion of Majesty and its accompanying assets. (Statement of Charges).
7. Michael E. Kelly, is the founder, owner, and chairman of Yucatan and is the chairman and owner of Resort Holdings. Kelly, through his entities Yucatan and later Resort Holdings, contacted and trained independent insurance agents, among others, to offer and sell the timeshare units and management agreements. Funds from investors were used to expand either the Yucatan or Resort Holdings resorts. (Statement of Charges).

8. Respondent is not now nor was ever licensed to sell securities as an agent or broker-dealer in the state of Indiana which is a violation of Ind. Code §23-2-1-1(b). (Statement of Charges).
9. The offense of selling securities without a license is cause for disciplinary action under Ind. Code §27-1-15.6-12(b)(8). (Statement of Charges).
10. Yucatan Resorts, Inc., World Phantasy Tours, Inc., Resort Holdings, and their founder and operator Michael E. Kelly have been the subject of cease and desist orders relating to securities fraud allegations and other alleged illegal activities in South Carolina, New Mexico, Tennessee, Wisconsin, Pennsylvania and Texas. (Statement of Charges).
11. Respondent met with Shirley Musselman and informed her of an investment in Resort Holdings that paid nine (9%) percent interest annually for twenty-five (25) years, and after the money had been invested for at least three (3) years then it could be withdrawn without penalty. (Statement of Charges).
12. In August of 2003, Respondent applied for and received an equity line of credit on behalf of Shirley Musselman in the amount of eighty-five thousand five hundred dollars (85,500.00) using her home as collateral. (Transcript pg. 25).
13. On September 15, 2003 at the direction of Respondent, Shirley Musselman invested thirty-one thousand dollars (31,000.00) to purchase this timeshare lease-back program in Resort Holdings. (Transcript pg. 17)
14. Respondent also directed Shirley Musselman to invest thirty thousand dollars (30,000.00) in a real estate investment with Vencenza II, LLC, a now defunct real estate development project currently in receivership. (Exhibit 2).
15. On March 10, 2004, Respondent met with Deloris Leptor and informed her of an investment in Resort Holdings that paid nine (9%) percent interest annually for twenty-five (25) years,

and after the money had been invested for at least three (3) years then it could be withdrawn without penalty. (Statement of Charges).

16. Delores Leptor invested at the direction of Respondent ten thousand dollars (\$10,000.00) to purchase a plan consisting of a timeshare lease-back program in Resort Holdings with a twenty five (25) year Universal Lease. (Transcript pgs. 29-30).
17. Neither of the above individuals Shirley Musselman or Deloris Leptor have received promised profits, refunds, or other valuable consideration from their investment with Resort Holdings. (Transcript pgs. 37-42).

CONCLUSIONS OF LAW

1. The Commissioner of Insurance has jurisdiction over both the subject matter and the parties to this action.
2. This hearing was held in compliance with the Administrative Orders and Procedures Act of the Indiana Code.
3. The Commissioner has the discretionary authority to revoke the Respondent's license to sell insurance and to fine Respondent.
4. The Department has met its burden in showing by a preponderance of the evidence that Respondent's conduct is contrary to the Indiana Insurance Code and that disciplinary action to include revocation of license is in order.
5. "Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Indiana or elsewhere" is a violation of Indiana Insurance Law. Ind. Code § 27-1-15.6-12(b)(8).
6. Respondent acted in a manner contrary to Indiana Insurance Law. Ind. Code § 27-1-15.6-12(b)(8) by, in the course of business in this state, demonstrating a clear and consistent

pattern of incompetence and poor judgment which has resulted in the loss of hundreds of thousands of dollars by Indiana residents, particularly senior citizens.

7. Respondent acted in a manner contrary to Indiana Insurance Law. Ind. Code § 27-1-15.6-12(b)(8) by, in the course of business in this state, demonstrating a clear and consistent pattern of willful ignorance of, and disregard for, the laws of this state which has resulted in the loss of hundreds of thousands of dollars by Indiana residents, particularly senior citizens.
8. Respondent acted in a manner contrary to Indiana Insurance Law. Ind. Code § 27-1-15.6-12(b)(8) by selling unregistered securities to Indiana residents contrary to Indiana state law, specifically Indiana Code § 23-2-1-3.
9. Respondent acted in a manner contrary to Indiana Insurance Law. Ind. Code § 27-1-15.6-12(b)(8) by acting as an agent for the sale of securities in the state of Indiana without being registered under Indiana Chapter 23 and contrary to Indiana state law, specifically Indiana Code § 23-2-1-8(a).
10. Respondent acted in a manner contrary to Indiana Insurance Law. Ind. Code § 27-1-15.6-12(b)(8) by marketing and selling Yucatan Resorts, Inc. Universal Leases and Resort Holdings International, Inc. or S.A. to Deloris Leptor and Shirley Musselman, at a time when sufficient public information existed such that Respondent either knew or should have known that the investments were a scam.
11. Respondent acted in a manner contrary to Indiana Insurance Law. Ind. Code § 27-1-15.6-12(b)(8) by failing to adequately investigate or research the investments he recommended and sold to Indiana Residents.
12. Respondent acted in a manner contrary to Indiana Insurance Law. Ind. Code § 27-1-15.6-12(b)(8) because he knew, or should have known, that associated entities and individuals

involved with Yucatan Resorts, Inc., World Phantasy Tours, Inc. and Resort Holdings International, Inc. were involved in regulatory, civil and/or criminal cases *before* he sold the product to Indiana Residents.

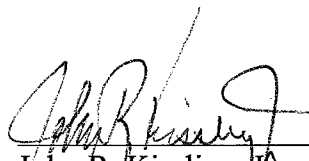
13. Findings of Fact that can be adopted as Conclusions of Law are hereby incorporated herein as such.

RECOMMENDED ORDER

With the Findings of Fact and the Conclusions of Law as stated, the Administrative Law Judge now recommends to the Commissioner of Insurance the following:

1. Respondent be required to pay a fine in the amount ten thousand dollars (\$10,000.00) for violation of Indiana Insurance Law committed by Respondent.
2. Respondent be required to pay restitution to Deloris Leptor in the amount of ten thousand dollars (\$10,000.00).
3. Respondent be required to pay restitution to Shirley Musselman in the amount of sixty-one thousand dollars (\$61,000.00).

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this 29th day of July, 2008.



John R. Kissling, Jr.
Administrative Law Judge

Distribution:

Laura Willett, Attorney
Indiana Department of Insurance
311 West Washington Street, Suite 300
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Jose Ernest Murcia
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